

APPLICANT'S REMARKS

That claims 14-20 contain allowable subject matter is gratefully acknowledged. Claims 10-13 have also not been rejected over the prior art.

Applicant has amended claims 1-20 to more particularly point out and distinctly claim the subject matter of his invention to overcome the rejection under 35 U.S.C. 112, second paragraph. And every effort has been made to present the invention as a means-plus-function format in the appropriate places in the claims under 35 U.S.C. 112, sixth paragraph.

Regarding Applicant's claim language, MPEP Section 2181 states:

The USPTO must apply 35 U.S.C. 112, sixth paragraph in appropriate cases, and give claims their broadest reasonable interpretation, in light of and consistent with the written description of the invention in the application. See *Donaldson*, 16 F.3d at 1194, 29 USPQ2d at 1850 (stating that 35 U.S.C. 112, sixth paragraph "merely sets a limit on how broadly the PTO may construe means-plus-function language under the rubric of reasonable interpretation.").

And this MPEP section further states that a "claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph, if it meets the following 3-prong analysis: (A) the claim limitations must use the phrase "means for " or "step for "; (B) the "means for " or "step for " must be modified by functional language; and (C) the phrase "means for " or "step for " must not be modified by sufficient structure, material or acts for achieving the specified function.

Applicant believes that the foregoing has been done in the amended claims. If the examiner disagrees, Applicant's undersigned attorney requests that he contact him to make whatever changes he deems necessary to correct the claim language and place the case in condition for allowance.

Claims 1-9 are rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent 6,408,793 to Rutter. In the examiner's analysis, he refers to "a rigid inwardly extending tilt section 140" and a

“rigid tilt section 140” and then he refers to the same Rutter structure as “said biasing means, flexible portion 140.” Applicant does not understand how section 140 can be both “rigid,” “flexible,” and a “biasing means” at the same time. Rutter only refers to his spring portion 140 as a “flexible portion 140” that is in a “quiescent state” where it is not stressed or flexed, and in a “flexed state” when the tethered animal moves. Rutter’s spring 140 is not disposed within a hollow tube and “spring-loaded” for continuously drawing the rigid, hollow tube against a base structure configuration.

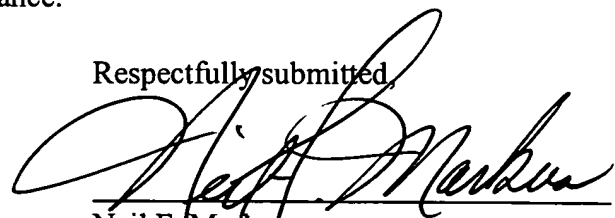
Rutter does not disclose a “rigid, hollow” portion in which a “biasing means” is disposed within a “rigid, hollow tilt section for continuously urging said base surface means against said open inner end of the tilt section with an amount of force sufficient to project the rigid tie section coupled to the outer end of the tilt section in a direction outwardly from said base surface means” as Applicant’s claim 1 states. Nor does Rutter disclose that “biasing means” to be “further effective to allow the tilt section to tilt in response to movement of a tethered animal.”

Applicant’s biasing means does not “flex” as does Rutter spring 140. For “flex” means that the Rutter structure must “bend” and not to “tilt” as does Applicant’s rigid, hollow tilt section. Applicant’s spring member is always spring-loaded along an inner axis of the tilt section to continuously urge the open end of the rigid, hollow tilt section against the base surface means.

Conclusion

In view of the foregoing, the prior art does not anticipate Applicant’s invention. Therefore Applicant requests that it be allowed and sent to issuance.

8322-A Traford Lane
Springfield, Virginia 22152
(703) 644-5000

Respectfully submitted,

Neil F. Markva
Attorney for Applicant